

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Statesboro Division

IN RE:)	Chapter 13 Case
)	Number <u>96-60315</u>
JERRY HODGES)	
KAREN MARIE HODGES)	
)	
Debtors)	
_____)	
WORLD OMNI FINANCIAL CORP.)	FILED
)	at 11 O'clock & 45 min. A.M.
Movant)	Date: 5-28-97
)	
vs.)	
)	
JERRY HODGES)	
KAREN MARIE HODGES, Debtors)	
AND BARNEE C. BAXTER,)	
CHAPTER 13 TRUSTEE)	
)	
Respondents)	

ORDER

By motion filed April 10, 1997 World Omni Financial Corp. as servicing agent for National Auto Finance Company (hereinafter "World Omni") seeks to amend, alter and clarify the order of confirmation in this Chapter 13 case. A review of the file in this Chapter 13 case fails to justify any alteration to the order of confirmation in this case.

The debtors Jerry Hodges and Karen Marie Hodges filed for relief under Chapter 13 of Title 11 United States Code on May 8, 1996. The debtors proposed to pay to the Chapter 13 Trustee the sum of \$156.00 per month for a period of 59 months to be disbursed as required under 11 U.S.C. §507 first to priority creditors in full, next to creditors who file claims and whose claims are allowed as secured to be paid in full with interest, and after satisfaction of secured claims, unsecured claims pro rata from remaining funds in an amount to be estimated at confirmation.

In response to the Chapter 13 filing, World Omni filed a proof of secured claim in the amount of \$13,536.25 claiming a secured interest in a 1993 Chevrolet Camaro automobile, serial No. 2G1FP22S7P2135817. World Omni also objected to confirmation, alleging that the case was filed in bad faith. Pursuant to the notice issued and served by the Clerk, a §341 meeting of creditors was held on June 3, 1996. The only creditor appearing at the §341 meeting was Ms. Lash S. Askew, Assistant District Attorney for the Middle Judicial Circuit Child Enforcement Division on behalf of the Georgia Department of Human Resources. Subsequent to the §341 meeting, the debtors filed an amended Chapter 13 plan providing for payments to the Chapter 13 Trustee in the amount of \$156.00 weekly for 59 months and adding a provision to make regular post petition payments as they come due to "Child Support Enforcement". All other

provisions of the debtors' original plan were unchanged. The Clerk issued a notice of the amended Chapter 13 plan to all parties in interest including World Omni and World Omni's attorney of record in the objection to confirmation. Confirmation hearing was held September 24, 1996. In addition to the debtors, their attorney and the Chapter 13 Trustee, Ms. Askew on behalf of the State of Georgia Department of Human Resources Child Support Enforcement and local counsel representing World Omni appeared. At the confirmation hearing, the amount of the prepetition child support unsecured priority claim due the State of Georgia was reduced by agreement and World Omni's objection tried. Following hearing, I overruled the objection and by order entered September 24, 1996 I confirmed the plan allowing the claim of World Omni in full as filed together with future interest at the rate of 12% per annum. The confirmation order was served by the Chapter 13 Trustee upon World Omni.

By motion filed February 5, 1997 World Omni sought relief from the stay of 11 U.S.C. §362(a) to foreclose its security interest in the collateral securing its claim in this case. Pursuant to notice, hearing was held March 11, 1997. World Omni sought relief from the stay because under the order of confirmation, the allowed unsecured priority claim of the State of Georgia Department of Human Resources Child Support Enforcement in the amount of \$13,859.16 would consume all disbursements from the

Trustee for the initial 14 months of the case, resulting in no payments on World Omni's allowed secured claim and an alleged lack of adequate protection. I found that the debtors were in compliance with the terms of their confirmed plan and that distributions were being made according to applicable law. Debtors were current in plan payments and World Omni's secured claim was allowed in full and is accruing post petition interest at the rate of 12% pursuant to the order of confirmation. By order entered March 19, 1997 I denied the request for relief from stay.

The terms of the confirmed plan are binding upon the debtor and World Omni. 11 U.S.C. §1327(a). Having confirmed the debtors' plan over the objection of World Omni without appeal, the order of confirmation is now final and binding, and compliance with that order provides adequate protection. In Re Pennington, Ch. 13 Case No. 89-11667, slip op. (S.D. Ga. Aug. 23, 1990) (Plan confirmation constitutes res judicata of all issues which could have been raised prior to confirmation, even issues which, if raised, would have barred confirmation.) See also, In re Minzler, 158 B.R. 720 (S.D. Ohio 1993) (The only post-confirmation ground for relief from the automatic stay is the debtor's failure to comply with plan requirements.) The current motion is nothing more than a third effort by World Omni, without having appealed any prior adverse determination, to circumvent the effect of the order of confirmation

in this case. The motion is ORDERED denied.

JOHN S. DALIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia
this 28th day of May, 1997.